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July 21, 2021

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### **VIA ECF ONLY**

Honorable Juan R. Sanchez, U.S.C.J.

United States District Court, Eastern District of Pennsylvania

James A. Byrne United States Courthouse

Room 14613

Philadelphia, Pennsylvania 19106-1797

**Re: Xavier Ingram v. County of Camden, et al.  
Civil Action No.: 1:14-cv-05519**

Dear Judge Sanchez:

This joint letter is submitted to report back to the Court the parties' respective positions regarding setting a trial date. Your Honor previously advised that you are available to try this case from February 28, 2022 through June 3, 2022. All counsel have contacted their experts to ascertain their availability, and have conferred to address their respective scheduling issues.

### **Plaintiff's Position**

The preference of plaintiff's counsel is to start jury selection on February 28, 2022 and to use the remainder of that week, through March 4, 2022 to seat the jury, address any remaining preliminary matters and present opening statements. Assuming plaintiff starts presenting witness testimony on March 7<sup>th</sup>, which includes bringing Mr. Ingram into court for a day, plaintiff's case should be in and completed on or before March 25<sup>th</sup>. With this schedule, all of the plaintiff's experts are available.

A later start date presents complications. Specifically, with regard to plaintiff's experts on the injuries sustained and causation, Paul Ivancic, Ph.D., the biomechanical engineer, may not be available from March 14<sup>th</sup> – 25<sup>th</sup>, and James Yue, M.D., the orthopedic surgeon, is not available from April 4<sup>th</sup> – 8<sup>th</sup>. As these two expert witnesses will be presented in tandem, this three-week period during which they are not available, would be severely impair plaintiff's ability to present his case cohesively.

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Assuming the trial would run Monday through Friday, even if it took 6 weeks, it would be concluded by April 15, 2022. This would also provide ample time for the case to conclude prior to the April 30, 2022 wedding date of plaintiff's co-counsel, Cory Rothbort.

Plaintiff responds to the issue raised by William Cook, Esq. that he has two trial dates in State Court cases. He advised that he has a trial date of February 21, 2022 in Zitter v. Petruccelli, Docket ATL-2202-17, and a trial date of March 14, 2022 in Benson v. Camden County, Docket No CAM-L-1483-18. Both of these State Court actions were filed after Ingram's case was filed on August 26, 2014. Moreover, both of these trial dates are first listings. Significantly, Mr. Ingram suffered grievous injuries on June 12, 2014, and has been and is permanently disabled and living in a nursing home. Mr. Ingram's case should take a priority over these other cases. Accordingly, it is respectfully requested that Your Honor issue an Order assigning Ingram a pre-emptory trial date so that Mr. Cook is available to try this case, or otherwise consult with the State Court Judges overseeing these two cases to resolve this potential conflict in Mr. Cook's trial schedule.

Plaintiff further responds to the Defendants' request for an April 4, 2022 trial date, set forth below. Their position that an April 4<sup>th</sup> start date would pose no hardship on plaintiff's counsel is based on their erroneous assumption that my partner, David Freeman will also be trying this case. This is not so. While Mr. Freeman, or other attorneys from my firm, may be in Court on certain days, they are not day to day trial counsel. Cory Rothbort and myself are trial counsel. If the trial were to start on April 4<sup>th</sup>, Mr. Rothbort would need to leave sometime during the week of April 25<sup>th</sup> for his wedding on April 30<sup>th</sup>, which would leave me without my co-counsel during trial – an untenable position in a case like this.

With regard to defendants' expert witness, John Ryan, I understand he is unavailable from April 4 – April 8<sup>th</sup>. However, assuming a start date of February 28<sup>th</sup> and plaintiff rests on or before March 25<sup>th</sup>, defendants can have Mr. Ryan testify either the week of March 28<sup>th</sup> or the week of April 11<sup>th</sup>.

### **Defendants' Position**

Defendants respectfully request the Court's consideration of a start date of April 4, 2022. Mr. Cook will be handling several aspects of the Ingram trial and it is necessary that he is present for the entire trial. He is currently scheduled for trial in Zitter v. Petruccelli, Docket ATL-2202-17 before the Honorable James H. Pickering Jr., J.S.C. in Atlantic County Superior Court on February 21, 2022. The Zitter trial is expected to be three (3) weeks. The case involves an oyster farmer whose farm was wrongfully seized and destroyed in 2013 causing extensive and severe losses and damages. The matter has a long and tortuous procedural history, having been previously filed on August 28, 2015 in the District of New Jersey under Docket No. 15cv6488, after which it was litigated in the Third Circuit and now the Superior Court of New Jersey. Mr. Cook is also scheduled for trial in the matter of Benson v. Camden County, Docket No CAM-L-1483-18 in Camden County Superior Court before the Honorable Michael J. Kassel, J.S.C. Benson involves the defense of a complex wrongful death case with ten (10) experts. It is scheduled to start on March 14, 2022. It is more likely that Mr. Cook could obtain an adjournment of the Benson matter, but it is not as likely that an adjournment could be requested in the Zitter matter for multiple reasons that are beyond the scope of this letter.

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A start date of April 4, 2022 in Ingram is most reasonable under the circumstances. The expert issues identified by plaintiff are not presented by an April 4<sup>th</sup> start date. The issue involving plaintiff's medical expert Dr. Yue, who is unavailable for the first week of April, would be resolved since the first week of trial will likely involve jury selection, openings, and fact testimony. Additionally, an April 4<sup>th</sup> start date avoids a complication with the defense police practices expert, John Ryan, who is unavailable for the first week of April 2022 due to a pre-existing teaching commitment at a police training conference. The start date proposed by plaintiff's counsel creates a risk that Mr. Ryan will be unavailable to testify when defendants are at that critical stage of the case.

Very respectfully, the only issue identified by plaintiff in April 2022 is the wedding of Mr. Rothbort, who is one of three (3) attorneys (two partners, one associate) who will be at trial for plaintiff. However, there are no reported availability issues for both partners for the length of the trial (Ms. Baldinger and Mr. Freeman), and Mr. Rothbort would still be present for most, if not all, of plaintiff's case, given that plaintiff's case will be completed in approximately three (3) weeks according to plaintiff's counsel.

Given our respective positions and concerns, all counsel request a further conference with Your Honor to discuss finalizing a trial date and related preliminary matters.

Respectfully,

**MAZIE SLATER KATZ & FREEMAN, LLC**

By: /s/Beth G. Baldinger  
BETH G. BALDINGER

**BROWN & CONNERY, LLP**

By: /s/William F. Cook  
WILLIAM F. COOK

cc: All Counsel of Record (Via ECF Only)

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